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BULMARO OROZCO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BULMARO OROZCO,  
  
Plaintiff,  
  
v.

TESORO REFINING AND MARKETING  
COMPANY, EAGLE REFINERY, and DOES  
1 - 50, inclusive,,  
  
Defendants.

Case No. C 11-5756 CRB

**STIPULATION AND [PROPOSED]  
ORDER CONTINUING DEADLINE  
TO COMPLETE MEDIATION**

Date Action Filed: October 11, 2011

Plaintiff Bulmaro Orozco and Defendant Tesoro Refining and Marketing Company,  
collectively "the Parties", by and through their counsel, stipulate and agree as follows:

1. WHEREAS, this action was filed on October 11, 2011.

2. WHEREAS, the Court held an initial Case Management Conference (“CMC”) on March 16, 2012. At the CMC, the Court set July 13, 2012 as the deadline for the Parties to complete mediation.

3. WHEREAS, Plaintiff’s Complaint alleges three causes of action. The First Cause of Action alleged is for disability discrimination, failure to engage in the interactive process, failure to accommodate disability, and failure to prevent discrimination in violation of California’s Fair Employment and Housing Act. The Second Cause of Action alleged is for retaliation for taking medical leave in violation of the California Family Rights Act. The Third Cause of Action alleged is for tortious discharge in violation of public policy. Among other items of alleged damage, Plaintiff seeks to recover damages for alleged “emotional distress, embarrassment, humiliation, and mental anguish.”

4. WHEREAS, because Plaintiff’s alleged disability is issue in the case, as well as his claim for emotional distress damages, Defendant began the process in January 2012 of seeking Plaintiff’s medical and psychiatric records from his treating health care providers at Kaiser Permanente (“KP”).

5. WHEREAS, due to various mishaps described *infra*, KP has yet to release any of Plaintiff’s psychiatric records.

6. WHEREAS, in a January 25, 2012 letter, defense counsel provided Plaintiff’s counsel with a KP Authorization for Use or Disclosure of Patient Health Information (“Authorization”) and asked that the Authorization be signed and returned to defense counsel so that the subject medical and psychiatric records could then be subpoenaed from KP.

7. WHEREAS, although Plaintiff signed the Authorization, he did not return it to his counsel, but instead delivered it to KP. As a result, a new Authorization needed to be prepared to begin the subpoena process. Thus, on March 15, 2012, defense counsel provided a new Authorization to Plaintiff’s counsel via e-mail.

8. WHEREAS, Plaintiff promptly signed the Authorization on March 26. However, it was inadvertently not provided to defense counsel until April 16, 2012.

1           9.       WHEREAS, the Authorization and accompanying subpoena were thereafter served  
2 on KP. Unfortunately, Plaintiff's signature on the Authorization was dated March 26, **2013** and  
3 KP would not honor a post-dated Authorization.

4           10.       WHEREAS, the process of obtaining a signed Authorization thus began anew in  
5 June 2012 when the error was discovered. While Defendant has received some of Plaintiff's  
6 medical records from KP, it has not yet received Plaintiff's psychiatric records which are relevant  
7 to Plaintiff's alleged mental disability and emotional distress claim.

8           11.       WHEREAS, defense counsel would prefer to have these key documents in hand  
9 before commencing Plaintiff's deposition. In addition, Defendant's efforts to obtain key  
10 documents from Plaintiff's union has, to date, been unsuccessful. A subpoena requesting the  
11 production of various documents from Plaintiff's union was served on May 17, 2012. (An earlier  
12 subpoena was, at the Union's request, served on the Union's counsel, but the Union then claimed  
13 improper service.) No response or objections were received by the June 1, 2012 deadline to  
14 respond. It appears it may become necessary for Court intervention to enforce the subpoena.

15           12.       WHEREAS, in addition to this litigation, Plaintiff is pursuing a grievance against  
16 Defendant relating to his termination. An arbitration of that grievance is set to begin on August  
17 30, 2012.

18           13.       WHEREAS, the Parties believe that it would not be productive to engage in  
19 mediation until after certain depositions have occurred, including Plaintiff's deposition and that of  
20 his former supervisor, John Zamarripa, as well as a person most knowledgeable at Tesoro  
21 concerning the reasons for Plaintiff's termination. In addition, mediation would be more  
22 productive if scheduled to occur after the above mentioned arbitration.

23           14.       WHEREAS, the undersigned defense counsel has a family vacation planned for  
24 September 2-11, 2012.

25           NOW THEREFORE, all Parties hereto stipulate and agree, and request, that the Court  
26 enter an Order continuing the deadline to complete mediation for 90 days (*i.e.*, to October 11,  
27 2012).

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: June 29, 2012

SEYFARTH SHAW LLP

By: /s/ Eden Anderson

William J. Dritsas

Eden Anderson

Attorneys for Defendant

TESORO REFINING AND MARKETING  
COMPANY

DATED: June 29, 2012

LAW OFFICES OF RANDAL M. BARNUM

By: /s/ Randal M. Barnum

Randal M. Barnum

Carrie E. Croxall

Attorneys for Petitioner

BULMARO OROZCO

**ORDER**

Good cause appearing therefor,

IT IS SO ORDERED.

Case Management Conference continued to October 12, 2012 at 8:30 a.m.

Dated: July 5, 2012

Hon. Charles R. Breyer  
United States District Judge

